

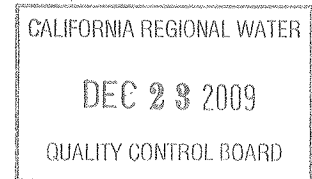
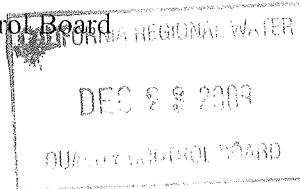
Recording Requested By:

VSF/REF Family Trust and
Bellows Family Trust
PO Box 219
San Bruno, CA 94066-0216

CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2009-0268776-00
Thursday, NOV 12, 2009 11:50:16
FRE \$0.0011
Ttl Pd \$0.00
Nbr-0000314427
lrc/R9/1-10

When Recorded, Mail To:

Bruce H. Wolfe, Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612



**COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY**

Bishop Center (former Busy Bee Cleaners)
11896 San Pablo Avenue, El Cerrito, CA 94530

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 10th day of November, 2009 by VSF/REF Family Trust and Bellows Family Trust ("Covenantor") who is the Owner of record of a specific portion of that certain property situated at 11896 San Pablo Avenue in the City of El Cerrito, County of Contra Costa, State of California, which is more particularly described in Exhibits A and B attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board for the San Francisco Bay Region (the "Board"), with reference to the following facts:

A. The soil and groundwater underlying the Burdened Property contain hazardous materials.

B. Contamination of the Burdened Property. The Burdened Property was contaminated by leaks from dry cleaning operations conducted by Busy Bee Cleaners. These operations resulted in contamination of soil and groundwater with organic chemicals including tetrachloroethene (PCE), trichlorethene (TCE), and cis-1,2-dichloroethene (cis-1,2-DCE), which constitute hazardous materials as that term is defined in Health & Safety Code Section 25260. To cleanup the contamination the slab floor and underlying soil were removed beneath the former location of the dry cleaning machine, and the former area of waste storage. Contaminated material was off hauled to an approved disposal facility, clean backfill was placed, and the slab was replaced in the building. Confirmation soil, soil gas, and groundwater sampling was conducted, and the results indicated that the remaining contaminant concentrations did not exceed commercial land use standards.

C. Exposure Pathways. The residual contaminants addressed in this Covenant are present in soil, soil gas, and groundwater beneath the parking lot of the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, and land use restrictions described herein, exposure to these contaminants could take place via dermal contact, inhalation, or ingestion by humans. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for commercial purposes (retail and/or office space), and is adjacent to other commercial land uses.

E. Full and voluntary disclosure to the Board of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the Board and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board for the San Francisco Bay Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development of the Burdened Property shall be restricted to industrial, commercial or office space;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;

f. No Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on the Property, unless expressly permitted in writing by the Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with all applicable provisions of local, state and federal law;

g. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board.

h. No Owners or Occupants shall redevelop the Burdened Property, unless expressly permitted in writing by the Board.

i. The Covenantor agrees that the Board, and/or any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

j. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the Board, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the Board to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and the groundwater under the property, and is subject to a deed restriction dated as of November 10, 2009, and recorded on _____, 2009 in the Official Records of Contra Costa County, California, as Document No. _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV
VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Covenantor"

VSF/REF Family Trust and Bellows Family Trust

Attention: Robert E. Faussner
PO Box 219
San Bruno, CA 94066-0219

Attention: Frank W. Bellows
PO Box 36
El Cerrito, CA 94530

If To: "Board"

Regional Water Quality Control Board
San Francisco Bay Region
Attention: Executive Officer
1515 Clay Street, Suite 1400
Oakland, California 94612

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Contra Costa within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: Robert E Faussner

Print Name: Robert E Faussner

Signature: Robert E. Faussner

Title: Trustee, VSF/REF Family Trust

Date: 11-10-2009

Covenantor: Frank W Bellows

Print Name: Frank W Bellows

Signature: [Signature]

Title: Trustee Bellows Family Trust

Date: 11-10-2009

CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Alameda

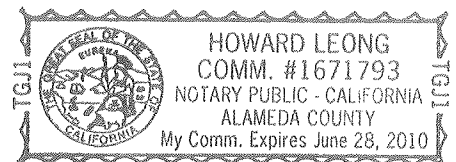
On NOV 10, 2009 before me, HOWARD LEONG, Notary Public, personally appeared ROBERT E FAUSSNER AND FRANK W BELLOWES, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

(Notary Seal)



California Regional Water Quality Control Board, San Francisco Bay Region

Print Name: Bruce H. Wolfe

Signature: _____

Title: Executive Officer

Date: _____

CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Alameda

On Nov 10, 2009 before me, HOWARD LEONG, Notary Public, personally appeared Bruce H. Wolfe, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Howard Leong
Signature of Notary Public

(Notary Seal)

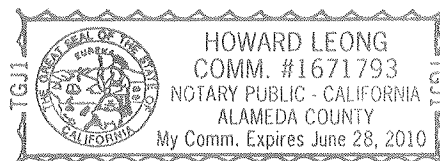
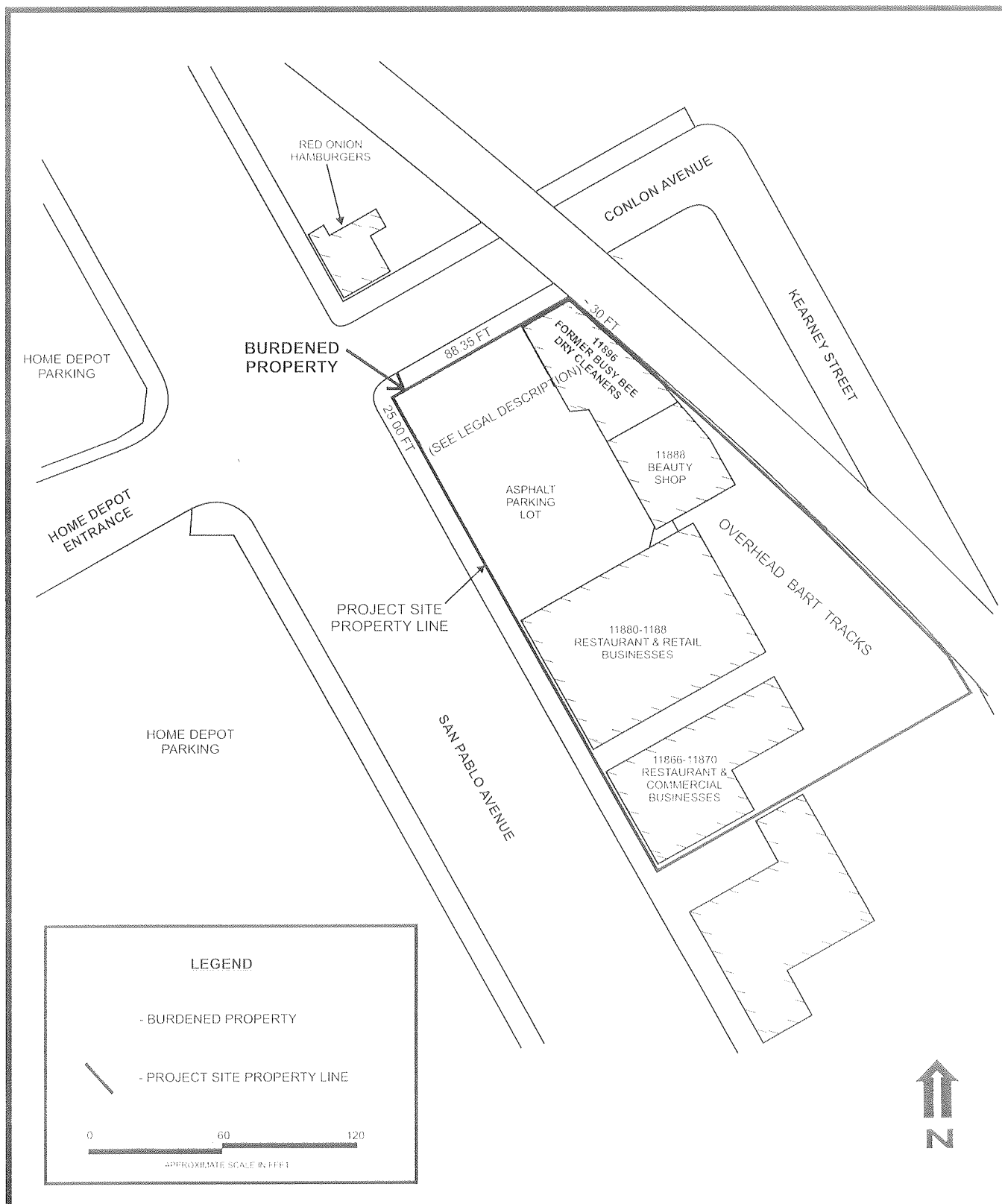


EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Portion of former Lot 27, in Block 4, as designated on the Map entitled "Richmond Junction Contra Costa County California", excluding only that portion of Lot 27 as falls within the BART ROW, which Map was filed in the office of the Recorder of the County of Contra Costa, State of California, on May 6, 1913, in Book 9 of Maps at Page 221, described as follows:

Beginning on the Northwestern line of said Lot 27 at the Southwesterly line of the BART ROW described in the "Final Order of Condemnation" entitled "San Francisco Bay Area Rapid Transit District, Plaintiff v Garland E Watts et al Defendant, Case # 100286, Recorded October 31 1967, Book 5485 of Official Records, Page 571; thence from said point of beginning along said Northwestern line Southwesterly S61degrees, 40' 28", 88.35 feet to the Southwesterly line of Lot 27; thence Southeasterly S28 degrees 18' 52", 25 feet to the Southeasterly line of Lot 27; thence Northeasterly N61 degrees 40' 28" to BART ROW; thence Northwesternly along BART ROW to the point of beginning.



DESIGNED BY:	CHECKED BY: JEG	EXHIBIT B: SITE PLAN SHOWING PROPERTY LINE AND BURDENED PROPERTY LIMITS 11896 SAN PABLO AVENUE EL CERRITO, CALIFORNIA	DATE: 09/22/2009	FIGURE: 1
DRAWN BY: JEG	SCALE:			
PROJECT NO:				

END OF DOCUMENT